

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1751 OF 2006

Rupesh Satish Shinde

...Applicant

V/s

The State of Maharashtra

...Respondent.

Mr.A.P. Mundergi for the applicant.

Mr.Y.S. Shinde, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 4th May, 2006

P.C.

1. Heard the learned Counsel for the applicant and
the learned APP for the State.

2. The applicant was arrested in connection with C.R.
No.I-52/2004 registered with the Thane Nagar Police
Station for the offence punishable under sections 302,
365, 368, 201, 120-B read with section 34 of the
Indian Penal Code. The applicant was arrested on
1/4/2006.

3. A dead body of an unknown person was found within
the territorial limits of Ghoti Police Station and the
said offence was registered on 29/1/2004.
Subsequently, it transpired during the course of

investigation that the dead body which was found was of Yogesh Pawar and the investigation was transferred to the Thane Nagar Police Station. On 16/1/2006 Megna was arrested and she was released on bail some time on 19/1/2006. The brain mapping and Narco test of Megna was conducted and on the basis of the said two tests the present applicant was arrested on 1/4/2006. The other co-accused were also arrested and are released on bail within a period of 2/3 weeks.

4. It is alleged that Megna had married the said Yogesh Pawar and, thereafter, her marriage was fixed with the present applicant who eliminated the said Yogesh Pawar. The prosecution case is that the applicant and the other accused killed Yogesh Pawar and disposed of his body. The only material which is available with the police at this stage after interrogating the applicant while he was in police custody for a period of 15 days is that he has shown the spot where the dead body was allegedly thrown. It is an admitted position that the Police already knew the spot where the dead body was found and, therefore, in my view, it is difficult to accept this evidence as discovery within the meaning of section 27 of the Evidence Act. Apart from this, there is no other material except the fact that during the course of the

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investigation of Megna and after the said tests, it revealed that the applicant is also involved. The Narco analysis test is not admissible in evidence.

5. Under these circumstances, in my view, the applicant is entitled to be released on bail in the sum of Rs 5000/- with one or two sureties in the like amount. He shall report to the Pachora Police Station once in a week till the charge-sheet is filed and thereafter once in a month. He shall report to the Thane Nagar Police Station as and when he is called. The applicant shall not tamper with the evidence or threaten any of the witnesses.

6. The trial court shall not be influenced by any observations made by this Court while deciding this application and the same may not be construed as an expression of opinion on the merits of the case. The trial court shall decide the case on its own merits and in accordance with law.

7. Application is disposed of.

V.M. KANADE, J.